

THE UNITED STATES DISTRICT COURT

District of New Jersey, (Trenton)

CIVIL RICO

Nicholas E Purpura)

42 U.S. C. 1983 & 42 U.S.C. 1985

Petitioner Chaplain (*pro se*))

Case No. :

v)

MEMORANDUM FOR TRO AND
SUMMARY JUDGMENT

Governor Philip Murphy, Assembly Pres.

Senate Majority Leader Loretta Weinberg
individually and in Official capacity, and
& Senate legislators, John & Jane Doe(s) et al.

Defendants

RECEIVED

APR 16 2018

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
THAT WARRANTS A SUMMARY JUDGMENT

"Men are endowed by their Creator with certain unalienable rights, 'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create these rights, governments are instituted.

The Second Amendment is unalienable. Government's duty is to "secure" it.

One of the proudest claims of America's Heritage, is the recognition of "Unalienable Rights" as eternally enshrined in our "Bill of Rights". The honorable and law abiding citizenry at large must not be punished for the wrongs and evils committed by a minority of those citizens.

Questions Presented

Political ideology must never be allowed to replace federal law.

The threshold issues:

What legal authority grants the Legislature and/or Executive Branch permission to enact unconstitutional *de facto* legislation? Bills A1016, A1217, A2757, A2758, A2759, A2761, recently enacted by the Assembly of the State of New Jersey, make violation of these acts a criminal offense, subjecting law abiding citizens to incarceration and confiscation *void due process*.

The passage of said acts are in direct violation of “**Federalism**”, **Article III, Sec. 2, 28 U.S.C. § 1331**, and constitute violations set forth in **42 U.S.C. §§ 1983, 1985** that protect against deprivation of rights guaranteed by the United States Constitution.

Whether public officials, under the guise of apparent authority in their “official capacity”, can legally deviate from, alter, or exceed powers granted under the U.S. Constitution?

Whether the alleged violations of the United States and New Jersey Constitutions ¹ mandate this Honorable Court employ “**Strict Scrutiny**” to keep faith with American jurisprudence and Your Honor’s “Oath” of office.

This Court must decide whether public officials, individually and/or collectively, in the State of New Jersey, can knowingly disregard the rights and privileges of any citizen of New Jersey through the enactment of unconstitutional legislation, or *de facto* laws that “*infringe*” on any Civil Right guaranteed by the Bill of Rights.

Simply put, did the Defendants nullify and replace “*federalism*” without any legal authority?

In the matter at bar, under the “*color of law*”, pursuant to the ‘Apparent Authority Theory’, did the Defendants ignore their sworn ‘Oath’ of office ² thereby enacting *de facto* law?

¹ N.J. Const. Article IV, sec. VII, para. 3 The legislature shall not pass any bill of attainder, **ex post facto law**, or law impairing the obligation of contracts or **depriving a party of any remedy for enforcing a contract which existed when the Contract was made**. See, Art. I Sec 10 U.S. Const.

This Court must decide!

Preliminary Statement

- 1.) Respectfully, due to the serious nature of this action, I ask you to consider carefully your sworn “Oath”³ of office. Your decision will have a profound effect on whether we are still, truly, a Nation of Laws.
- 2.) With deference and respect for our Constitution and this litigant⁴ I respectfully request the Court consider the words of Justice Antonin Scalia from Heller:

“The very enumeration of the right [to keep and bear arms] takes out of the hands of government – even the Third Branch of Government – power to decide on a case-by-case whether the right is really worth insisting upon. A constitutional guarantee subject to future judges’ assessments of its usefulness is no constitutional guarantee at all. Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad” [ID., 554 US At 634-35].

The Amendment II [1791]:

*“A well-regulated Militia, being necessary to the security of a free State, the **right of the people to keep and bear Arms**, shall not be infringed”.*

² ‘The Oath of Office requires each person within each branch of government, federal & state to obey the U.S. Constitution, to do otherwise is a federal crime, see, 5 U.S.C. § 3331 followed by the third part of the law . 5 U.S.C. § 7311 that includes (1) removal from office and; (2) confinement or a fine. Further specified in Executive Order 1040 which for the purpose of enforcement supplements 5 U.S.C. § 7311 reinforces that it is a crime to fail to protect the Constitution”.

³ **RULE - 16th American Jurisprudence, Second Edition: “Jurisprudence, by which all judges are bound by “oath”, is the science of the law.** By science here, is understood that connection of truths which is founded on principles either evident in themselves, or capable of demonstration; a collection of truths of the same kind, arranged in methodical order. In a more confined sense, jurisprudence is the practical science of giving a wise interpretation to the laws, and making a just application of them to all cases as they arise. In this sense, **it is the habit of judging the same questions in the same manner, and by this course of judgments forming precedents.**”

⁴ Petitioner, a Chaplain, is a ‘Constitutional Lecturer’, admittedly not an attorney. He is eminently familiar with the law and its meaning.

3.) Consider the words ‘necessary’ and ‘infringed’, then consider what the most liberal Court in the United States, the Ninth Circuit, held unanimously *en banc* in, Nordyke v King, 644 F.3d 776, 781 n.4, 786-87 & n.10 (9th Cir. 2011):

“The right to bear arms is a bulwark against external invasion. We should not be overconfident that oceans on our east and west coasts alone can preserve security. We recently saw in the case of the terrorist attack on Mumbai that terrorists may enter a country covertly by ocean routes, landing in small craft and then assembling to wreak havoc. That we have a lawfully armed populace adds a measure of security for all of us and makes it less likely that a band of terrorists could make headway in an attack on any community before more professional forces arrived. Second, the right to bear arms is a protection against the possibility that even our own government could degenerate into tyranny, and though this may seem unlikely, this possibility should be guarded against with individual diligence.” Judge Gould concurring.

4.) Most Importantly: See part III of the decision:

“Our government has been democratic and our borders secure, and so it is hard for modern minds to consider the need to take up arms for protection of country from threats both internal and external. But constitutions are designed to endure and the Bill of Rights must be interpreted in light of the long period of time over which we hope that our country will thrive. The Framers of the Second Amendment had in mind that an armed citizenry can both repel external aggression and check the danger of an internal government degenerating to tyranny.”

5.) Lastly, before proceeding, the words of the Honorable Judge Christopher C. Conner are worth repeating (1:10-CV-763):

“We cannot avoid the duty, even though (sic) it requires us to refuse to give effect to legislation designed to promote the highest good. The good sought in unconstitutional legislation is an insidious feature, because it leads citizens and legislators of good purpose to promote it, without thought of the serious breach it will make in the ark of our covenant, or the harm which will come from breaking down recognized standards.”

6.) Defendants acted illegally in concert, enacting laws repugnant to our Constitution in a contrived rewrite of laws that will transform an “inherent right” into a “privilege.” This Court must not allow this transgression that attempts to further their ideological goal of unconstitutional deprivation of our unalienable II Amendment rights.

Jurisdiction and Statutory Provisions Involved

7.) This Court maintains jurisdiction, *inter alia*, under **Article III, Sec. 2**, which pertains to specific violations arising under the Constitution. **28 U.S.C. § 1331**, includes specific violations as set forth in **42 U.S.C. §§ 1983, 1985**, and deprivation of **Amendments II, V, IX, and XIV**, of the United States Constitution.

8.) **Article VI, Cl 2.**, the Supremacy Clause, establishes that federal and State laws must be made pursuant to it, as it constitutes the supreme law of the land. The Supremacy Clause provides that State Courts are bound by the supreme law. In cases where we have a conflict between federal and State law, **federal law must prevail**.

9.) **18 USC § 242: DEPRIVATION OF RIGHTS UNDER COLOR OF LAW: “Whoever, under ‘color of any law’, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ...shall be fined under this title or imprisoned not more than ten years, or both”**

“An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed.” Norton vs Shelby County, 118 U.S. 425, p. 442

“An unconstitutional law is void, and is as no law. An offence created by it is not a crime.” Ex parte Siebold, 100 U.S. 371, 376 (1880), quoted with approval in Fay v. Noia, 372 U.S. 391, 408 (1963)

“No one is bound to obey an unconstitutional law and no courts are bound to enforce it.” 16th American Jurisprudence 2d, Section 177 late 2nd, Section 256

“Color of Law” means “The appearance or semblance, without the substance, of legal right.” ***Misuse of power***, possessed by virtue of State law and made possible only because wrongdoer is clothed with authority of State is action taken under ‘color of law.’”. Atkins v. Lanning. D.C.Okla., 415 F. Supp. 186, 188.

“Because of their respect for what appears to be a law many people are cunningly coerced into waiving their rights due to ignorance.” US v Minker, 350 179 (1956).

Things invalid from the beginning cannot be made valid by subsequent act [proposed legislation]
See, Trayner, Max. 482. Maxims of Law, Black’s Law Dictionary 9th Edition, page 1862

10.) American jurisprudence is replete with such eminent wisdom. Our Supreme Court has, on occasions too numerous to quote, consistently held that the right of law abiding citizens to defend themselves by virtue of the Second Amendment **shall not be abridged** by unconstitutional *de facto* law.

Please take Notice:

11.) As this Court is aware, **the purpose of Summary Judgment is to avoid a pointless trial in cases where it is unnecessary and would only cause delay and expense.** Prayerfully, this Honorable District Court will recognize that there is no genuine issue as to any 'material fact' and that the moving party is entitled to a judgment as a matter of law.

FRCP 56(c) Defendants are required by law, to answer each averment based upon existing law and precedent, with "specificity and particularity" or face a default.⁵

The PARTIES

12.) Petitioner, Nicholas E. Purpura, a citizen of the United States and resident of the State of New Jersey existing under and by virtue of the laws of New Jersey and permanent laws of the United States, **U.S. Code Title 1**, maintains his principle residence at 1802 Rue De La Port, Wall, New Jersey, 07719.

13.) Defendants are residents of the State of New Jersey and doing business at the State House, Trenton, New Jersey; Governor Phil Murphy, and Senate Majority Leader Loretta Weinberg are being served on behalf of the entire Senate and are to provide copies to all members of the Senate and also required to provide copies to all members of the House that enacted the unconstitutional laws in question.

⁵ Fed. R. Civ. P. 56(e) requires the non-moving party: Defendants "shall mirror the movant's Statement by admitting and/or denying each of *Petitioners assertions in matching numbered paragraphs*. Each denial shall set forth a specific citation to the record (Summary Judgment) where a factual issue arises." Any facts set forth in the statement of material fact shall be deemed admitted unless specifically controverted by the Defendants.

Summary Of Complaint

How can 'We the People' address the question at bar if the Courts refuse to obey Constitutional Law

"Preamble to the U.S. and N.J. Constitutions –
"We the people ... do ordain and establish this Constitution...;"

14.) This Petition will define whether we are a Nation of law, dependent upon this Court's willingness to put an end to the "*abuse of power*" and the "*oppressive*" conduct by public officials under the guise of apparent authority. The public officials in the State of New Jersey believe they are above the law, and can, with impunity, disregard the United States Constitution.

15.) Non-compliance with the United States Constitution, statutes, and Supreme Court precedent is a direct violation of "*federalism*". The Honorable Justice Alito reminded us in his concurring opinion with the *en banc* decision, see Dept. of Transportation et al. v Assoc. of Amer. RR, No. 13-1080 (2015):

"Liberty requires accountability." "...Under the Constitution all officers of the United States must take an 'oath' or affirmation to support the Constitution" See. **Art. VI, Cl.13**
"the Constitution cannot be disregarded."

16.) Collectively, Defendants are persons having the ability, in their official capacity, to exercise control over the business and operations of the State of New Jersey. In a blatant disregard for the U.S. Constitution, they are attempting to institute permanent, unconstitutional, *de facto* laws, which subjects each of them to the jurisdiction of this District Court.

17.) With disdain for the United States and New Jersey Constitutions⁶, and their "Oath" of office, Defendants knowingly and intentionally have disregarded the "unalienable rights" of all the law abiding citizens residing in the State of New Jersey, "*infringing*" upon the Second Amendment, and thereby violating civil rights, and the "*contract*" entered into by the people of New Jersey. Based solely upon "political ideology", and not law, they have additionally violated

⁶ ART. VII, Sec. N.J. Const. Public Officers; Every State officer, before entering upon the duties of his office, shall take and subscribe an oath or affirmation to support the Constitution of this State and of the United States and to perform the duties of his office faithfully, impartially and justly to the best of his ability.

the 9th Amendment. They have failed to legally justify, "what authority grants them the right?"

Statement Of Fact

"A free people ought not only be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who might attempt to abuse them, which would include their own government." George Washington.

18.) Article IV, Section VII, paragraph 3; The Legislature shall not pass any bill of attainder, **ex post facto law**, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made. Art. I Sec 10 U.S. Const.

19.) THE GENERAL RULE - 16th American Jurisprudence, Second Edition: "Jurisprudence, by which all judges are bound by "oath", is the science of the law. By science here, is understood that connection of truths which is founded on principles either evident in themselves, or capable of demonstration; a collection of truths of the same kind, arranged in methodical order. In a more confined sense, jurisprudence is the practical science of giving a wise interpretation to the laws, and making a just application of them to all cases as they arise. In this sense, **it is the habit of judging the same questions in the same manner, and by this course of judgments forming precedents.**"

Please Take Special Notice:

20.) *The Oath of Office requires each person within each branch of government, federal & State to obey the U.S. Constitution, to do otherwise is a federal crime, see, 5 U.S.C. § 3331 followed by the third part of the law, also see 5 U.S.C. § 7311 that includes (1) removal from office and; (2) confinement or a fine; further specified in Executive Order 1040 which for the purpose of enforcement supplements 5 U.S.C. § 7311 that reinforces that it is a crime to fail to protect the Constitution.*

21.) This ‘Summary Judgment’ is applicable since no genuine issues of material fact exist, regardless of how many arguments the Defendants attempt to make, whether on technicalities or contrivances. Defendants have no remedy in law.

22.) This Court must consider the futility doctrine that states, no further attempts by Defendants should be entertained by the Court. Their arguments will only be illusions. It is universally understood Federal Courts are interested in “positive law”, the “Law of the Land” as well as statutory law. All State (administrative or legislative) laws are meaningless if they violate the Constitution.

23.) All true practitioners of law would acknowledge, State administrative law is nothing more than “*abuse of power*” and in most cases illegitimate, as well as unconstitutional, especially as evidenced in this matter.

“...the conventional understanding of administrative law is utterly mistaken. It is wrong on the history and oblivious to the danger. That danger is absolutism: extra-legal, supra-legal, and consolidated power. And the danger matters because administrative power revives this absolutism. The Constitution carefully barred this threat, but constitutional doctrine has since legitimized this dangerous sort of power. It therefore is necessary to go back to basics. Among other things, we should no longer settle for some vague notion of “rule of law,” understood as something that allows the delegation of legislative and judicial powers to administrative agencies. We should demand rule through law and rule under law. Even more fundamentally, we need to reclaim the vocabulary of law: Rather than speak of administrative law, we should speak of administrative power—indeed, of absolute power or more concretely of extra-legal, supra-legal, and consolidated power. Then we at least can begin to recognize the danger.”⁷

24.) The Supreme Court in *Bond v United States*, 572 U. S. No. 12–158 (2014) “*We held that, in a proper case, an individual may “assert injury from governmental action taken in excess of the authority that federalism defines.”*”. In *New York v. United States*, 505 U.S. 144, 181

⁷

The History and Danger of Administrative Law by Philip Hamburger Columbia Law School

(1992), “*State sovereignty is not just an end in itself: “Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power.”*” quoting *Coleman v. Thompson*, 501 U. S. 722, 759 (1991) (Blackmun, J., dissenting).⁸

25.) The U.S. Supreme Court reminded all jurisdictions; in their opinion in *Bond v. United States*, No. 09-1227:

“*“[f]ederalism secures the freedom of the individual” as well as the prerogatives of state governments. In addition to setting boundaries “between different institutions of government for their own integrity,” constitutional federalism also “secures to citizens the liberties that derive from the diffusion of sovereign power.”* The Supreme Court, as we have seen, decided... .. federalism protects individual freedom as well as state sovereignty.

26.) History has shown that state and local governments can threaten liberty through passage of *de facto* law.

27.) **'Law of the case'** rules, and functions to maintain consistency and avoid reconsideration of matters once decided, as those relate to parallel lawsuits. Although commonly labeled the 'law of the case' doctrine, **a lower Court is obliged to adhere to the rulings of a higher court.** In short, under the doctrine of *stare decisis*, Courts will “standby things” decided and relied upon in prior rulings.

⁸ **Courts, Judicial Precedent:** (*Stare decisis*) To enact the proposed legislation would overturn *en banc* rulings that have had long and widespread application, there must be more than controversy about the prior rule. No departure from precedent is appropriate to undermine its doctrinal underpinnings, or when this precedent has proved unworkable. Nothing has taken place to ignore any of the existing precedent, as will be overwhelmingly reinforced below, that would warrant further and unnecessary litigation.

Proof the Issue is “Stare decisis”:⁹ (No triable issue exists)

Davis v. Wechsler, 263 US 22, 24. “Where rights secured by the Constitution are involved,
there can be no rule making or legislation which would abrogate them.”

Miller v U.S., 230 Fed 486,489 “*There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights.*”

Sherer v Cullen, 481 F 946 “*We could go on, quoting court decision after court decision, however, the Constitution itself answers our question. Can a government legally put restrictions on the rights of the American people at anytime, for any reason? The answer is found in Article Six of the U.S. Constitution: Miranda v. Arizona, 384 U.S. 426, 491; 86 S. Ct. 1603 “Where rights secured by the Constitution are involved, there can be no ‘rule making’ or legislation which would abrogate them.”*

Norton v. Shelby County, 118 U.S. 425, p 442 “*An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed.*”

Shuttlesworth v. city of Birmingham Alabama, 373 U.S. 262. “*if the state converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity.*”

Bond v. United States: “*an individual may “assert injury from governmental action taken in excess of the authority that federalism defines.”*”

Murdock v. Pennsylvania, 319 U.S. 105; “No state shall convert a liberty into privilege, license it, and charge a fee therefore”

Miranda supra, *Where rights secured by the Constitution are involved, there can be no rule making of legislation which abrogate them...*”

⁹ **Courts, and Judicial Precedent, Stare decisis, is of fundamental importance to the rule of law.** The doctrine of *stare decisis* enhances predictability and efficiency in dispute resolution and legal proceedings, by enabling and fostering reliance on prior rulings. By providing stability of law that has been decided, *stare decisis* **is the foundation of a nation governed by law.** The U.S. Supreme Court has said that it will not depart from the doctrine of *stare decisis* without some compelling justification.

Davis v. Wechler, 263 U.S. 22, 24; Stromberg v. California, 283 U.S. 359; NAACP v. Alabama, 375 U.S. 449 "The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice."

28.) To eliminate any misunderstanding or confusion concerning "administrative law" Petitioner again refers to one of the foremost experts in the United States to clarify any misunderstanding the Court or Defendants' counsel may have concerning the unconstitutional misbehavior of those Defendants that acted illegally in their official capacity in the State of New Jersey, based upon the irrefutable following guaranteed protections:

Professor Philip Hamburger, Columbia Law School:

"All legislative Powers herein granted shall be vested in a Congress of the United States." The word "all" was not placed there by accident. The Framers understood that delegation had been a problem in English constitutional history, and the word "all" was placed there precisely to bar it.

As for procedural rights, the history is even more illuminating. Administrative adjudication evades almost all of the procedural rights guaranteed under the Constitution. It subjects Americans to adjudication without real judges, without juries, without grand juries, without full protection against self-incrimination, and so forth. Like the old prerogative courts, administrative courts substitute inquisitorial process for the due process of law – and that is not just abstract accusation; much early administrative procedure appears to have been modified on civilian-derived inquisitorial process. Administrative adjudication thus becomes an open avenue for evasion of the Bill of Rights."

29.) The federal challenge herein is the unconstitutional enactment of Six (6) Acts that 'infringe' upon the Second Amendment in total disregard for "Federalism" based not on law, but instead, on political ideology! The U.S. Supreme Court discussed in its precedent that resolved non-constitutional issues, only Congress remains free to alter what the Supreme Court has done.

30.) This action is supported upon a legion of incontrovertible prior decisions that make **any further litigation unnecessary and frivolous.** This matter has been previously adjudicated and is now *Stare decisis* is an important doctrine with deep roots in the common law, because:

"it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived

integrity of the judicial process." Payne v. Tennessee, 501 U.S. 808, 827 (1991).

"Considerations of stare decisis have special force in the area of statutory interpretation, for here, unlike in the context of constitutional interpretation, the legislative power is implicated, and Congress remains free to alter what we have done." Patterson v. McLean Credit Union, 491 U.S. 164, 172 -173 (1989).

31.) This Court must decide whether Defendants, void authority, enacted legislation absent legal justification, without alternative facts or information. Most importantly, this Court must decide whether it considers itself fully bound by the prior decisions of the Supreme Court; see Hale v. Henkle, 201 U.S. 43 (1906):

"His rights are such as existed by law of the land long antecedent to organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution."

Frost v. R.R. Comm'n of State of Cal., 271 U.S. 583, 593-94 (1926) *the doctrine of unconstitutional conditions articulated that as a general rule, the state, having power to deny a privilege altogether, may grant it upon such conditions as it sees fit to impose. But the power of the state in that respect is not unlimited, and one of the limitations is that it may not impose conditions which require the relinquishment of constitutional rights. If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all. It is inconceivable that guaranties embedded in the Constitution of the United States may thus be manipulated out of existence.*

32.) Watson vs. Memphis, 375 US 526 *"Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them."*

"No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution." 16 Am.Jur. (2nd), Const. Law, Sect.70.

33.) Petitioner respectfully ask this Honorable Court to consider that Defendants, by law, became violators of a constitutionally protected civil right; and could possibly be subjected to the charge of treason, as aptly confirmed by this Supreme Court in Cooper v Arron, 358 US 1, 78 S

Ct. 1401 (1958) that held: *“No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.”*¹⁰

34.) Regardless of what station or level of authority Defendants believe they may have, by their violation of an inalienable right they are guilty of abridging the civil liberties guaranteed in the *Bill of Rights*. **For this, there is no basis in law.**

35.) Petitioner is bound by sworn “oath” (Military, that has no expiration date), as is this Court, to defend the United States Constitution “... *against all enemies, Foreign and Domestic...*” from any and all invalid enactments of laws that ‘*infringe*’ upon the Constitution and Amendments contained in the Bill of Rights.

36.) Plaintiff is legally entitled to a ‘Temporary Restraining Order’ **until Defendants can demonstrate to this Honorable Court, based upon law, that the proposed Administrative legislation, assignments, and 'encumbrances' do not constitute a violation of “federalism”.**

Conclusion

37.) Petitioner, the moving party, in compliance with the requirements that warrant the relief requested, bears the burden of showing the absence of a factual issue and that he is entitled to judgment as a matter of law. Plaintiff has further shown that there is no legal authority that precludes this Court from granting the TRO as well as Summary Judgment. (See *Norman v. Turkey Run Cmty Sch. Corp.*, 274 Ind. 310, 312, 411 N.E.2d 614, 615 (1980)).

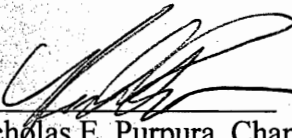
38.) This Court must require Defendants **present sufficient evidence to demonstrate the existence of a genuine issue of material fact granting them authority to enact said legislation in question.** [based upon established law, my emphasis] *Oelling v. Rao*, 593 N.E.2d 189, 190 (Ind. 1992). Until such time, **it is proper for this Honorable Court to grant Petitioner’s request for a ‘Temporary Restraining Order’.**¹¹

¹⁰ The S. Ct. in *Re, Sawyer*, 124 US 200 (1888) “*he is without jurisdiction, and has engaged in a act or acts of treason.*” Also, see *U.S. v Will*, 449 US 200, 216, 101 264, 404. 5 L. Ed 3923, 406 (1980) holds true today.

¹¹ The 9th Amendment is unmistakable, unequivocal, and explicit; no state enactment of legislation that violates the U.S. Constitution has any validity. What is more damning to the proposed legislation, the Supreme Court of these United States has previously addressed the issue of whether a state can impose legislation that “infringes” upon [federalism] the U.S. Constitution.

39.) The trial Court's task is to determine the law applicable to the undisputed facts, evidence, and (S. Ct.) precedent and correctly apply it. Plaintiff's *ex parte* request is urgent considering these six (6) unconstitutional pieces of legislation are due to be voted on today, by the New Jersey Senate.

Respectfully submitted,



Nicholas E. Purpura, Chaplain
Plaintiff *pro se*